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May 30, 1991

Joseph Rutberg, Esq.  
Office of General Counsel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Kansas Gas and Electric Company  
(Wolf Creek Generating Station):  
NRC Operating License NPF-42

Dear Joe:

Enclosed you will find copies of the following:

1. FERC: Offer of Settlement, Addendum to Offer of Settlement with pro forma tariffs appended, a separate explanatory statement and a proposed Order which have been submitted for filing in the Federal Energy Regulatory Commission Docket No. EC91-2-000; and
2. Oklahoma Corporation Commission: Stipulation and Order entered May 6, 1991, with the Corporation Commission of the State of Oklahoma.

The FERC settlement documents, if accepted by FERC, will result in a complete resolution of the FERC proceedings on terms favorable to the proposed merger. The settlement will presumably be ruled on by FERC after the close of the comment period, June 21. The Oklahoma order confirms that the Oklahoma Corporation Commission has concluded that it lacks jurisdiction over the proposed merger, and thus closes out proceedings in that state.

On May 23, Kansas City Gas and Electric Company and The Kansas Power and Light Company certified to the Justice Department that they had provided all information relevant to the merger, and thus started the 20-day review period under the Hart-Scott-Rodino Act.

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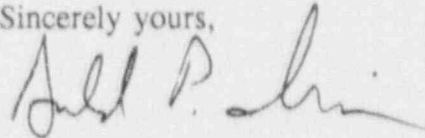
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HUNTON & WILLIAMS

Joseph Rutberg, Esq.  
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I will continue to provide you with copies of documents relevant to the KPL-KG&E merger, in order to aid the Commission's ongoing review of the Wolf Creek license transfer and amendment requests.

Sincerely yours,



Donald P. Irwin

Enclosures

cc: Edwin J. Reis, Esq. (OGC) (w/o enclosures)  
Darrel A. Nash (NRR) (w/enclosures) ✓  
William M. Lambe (NRR) (w/enclosures)  
Robert D. Martin (Region IV) (w/o enclosures)  
Douglas V. Pickett (NRR) (w/o enclosures)  
Secretary of the Commission (w/enclosures)  
Richard D. Terrill, Esq. (KG&E) (w/o enclosures)  
Martin J. Bregman, Esq. (KPL) (w/o enclosures)  
Samuel Cowley, Esq. (KCPL) (w/o enclosures)  
Harold L. Haun, Esq. (KEPCo) (w/o enclosures)  
Warren B. Wood, Esq. (WCNOC) (w/o enclosures)

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May 20, 1991



Ms. Lois Cashell  
Secretary  
Federal Energy Regulatory Commission  
Room 9310  
825 North Capitol Street, N.E.  
Washington, D.C. 20426

Dear Ms. Cashell:

With great pleasure, pursuant to Commission Rule 602, 18 C.F.R. §385.602, Kansas Power and Light Company (KPL) and Kansas Gas & Electric Company (KG&E) encloses for filing and transmittal to Judge Jon Lotis an original and sixteen copies of each of the following:

- (a) an Offer of Settlement resolving all issues in this proceeding;
- (b) an Addendum to Offer of Settlement;
- (c) pro forma tariffs, appended to the Addendum, reflecting settlement terms;
- (d) a separate explanatory statement<sup>1</sup>; and
- (e) a proposed order.

The Offer of Settlement and Addendum to Settlement (collectively, the Settlement) are the result of extensive negotiations and informal discussions between the parties. Judge Lotis created a committee of party representatives and charged the committee with proposing appropriate conditions, if any, which should be included in an authorization of the merger. This "Conditions Committee" met frequently, worked diligently and proved to be an effective vehicle for settlement.

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<sup>1</sup>The separate explanatory statement and the proposed order were drafted by KPL and KG&E. KPL and KG&E believe that the terms of the Settlement are reflected accurately in those documents, but neither the Staff nor the other signatory parties have expressly agreed to the specific language used therein.

Ms. Lois Cashell  
May 20, 1991  
Page 2

The Settlement reflects a fair and equitable resolution of all issues in the proceeding. KPL and KG&E believe that no party will contest the Settlement. KPL and KG&E request that the Commission consider the Settlement as expeditiously as possible and issue an order authorizing the merger, as conditioned by the Settlement.

Waiver

KPL and KG&E respectfully request waiver of any of the Commission's regulations which may be necessary for approval of this Offer of Settlement and Addendum to the Offer of Settlement as proposed herein.

Service

Copies of this letter and all enclosures are being served upon all parties of record in this proceeding, KPL's and KG&E's other jurisdictional customers and all interested state commissions in accordance with Commission Rule 602(d).

Notice

By copy of this letter, KPL and KG&E are notifying each of the foregoing persons that, pursuant to Rule 602(d) of the Commission's Rules of Practice and Procedure, comments, if any, on the enclosed Settlement must be filed on or before June 10, 1991 and reply comments, if any, must be filed on or before June 21, 1991.

Respectfully submitted,

GRAVES, DOUGHERTY, HEARON & MOODY  
P. O. Box 98  
515 Congress Avenue  
Austin, Texas 78767  
(512) 480-5678  
(512) 478-1976 Telecopier

ATTORNEYS FOR THE KANSAS POWER AND  
LIGHT COMPANY

By

  
G. Gayl Watkins



Ms. Lois Cashell  
May 20, 1991  
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cc: Chairman Martin Allday  
Commissioner Elizabeth Anne Moler  
Commissioner Charles A. Trabandt  
Commissioner Branko Terzic  
Commissioner Jerry J. Langdon  
Mr. William Scherman  
Mr. Richard O'Neill  
Mr. J. Steven Herod

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

The Kansas Power and Light	)	
Company and Kansas Gas and	)	Docket No. EC91-2-000
Electric Company	)	

**OFFER OF SETTLEMENT**

The Kansas Power and Light Company (KPL), Kansas Gas and Electric Company (KG&E) (hereinafter collectively referred to as Companies), the Staff of the Federal Energy Regulatory Commission (Staff), and participating intervenors have met on a number of occasions for the purpose of resolving the issues in this matter. As a result of those meetings, the parties<sup>1</sup> have been able to reach agreements which dispose of all the issues in Federal Energy Regulatory Commission (Commission) Docket No. EC91-2-000.

**DESCRIPTION OF THE PROCEEDINGS**

On December 11, 1990, the Companies filed their Joint Application for Expedited Authorization and Approval of Merger (Joint Application). On January 30, 1991, the Commission issued its Order Granting Interventions and Establishing Hearing Procedures (Hearing Order), setting this case for hearing. In its Hearing Order, the Commission identified the issues to be addressed at the hearings and directed the Presiding Administrative Law Judge

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<sup>1</sup>For purposes of this Offer of Settlement, the terms "party" and "parties" include the Staff, unless otherwise indicated.

(ALJ) to establish a procedural schedule which would allow him to issue an initial decision on or before September 30, 1991.

At the first prehearing conference in this matter on February 19, 1991, the ALJ established a procedural schedule as required and directed the parties to constitute a technical conditions committee. The committee was directed to meet and discuss conditions which the parties believed should be imposed upon the Companies in the event the merger is approved by the Commission. This committee met on several occasions. The efforts of the committee, combined with the efforts of the Companies and individual parties, have resulted in this Offer of Settlement.

## ARTICLE I RESOLUTION OF TRANSMISSION ISSUES

Section 1. Within sixty (60) days following the closing date of the merger, the Companies agree to file in the form provided in Appendices 1 and 2, respectively, service schedules under which certain firm and non-firm wholesale transmission services will be provided.

Section 2. The service schedules so filed by the Companies shall provide for wholesale firm and non-firm transmission services at cost-based rates on terms and conditions consistent with those applicable to other retail and wholesale services and will recognize cost differentials for services utilizing different voltage levels.

Section 3. The Companies will make a transmission rate filing pursuant to the Federal Power Act no later than six (6) months after the Commission's approval of the service schedules filed in compliance with Article I, Section 1 of this Offer. This filing will contain all cost data and operating parameters for the Companies necessary to evaluate alternate cost-based firm transmission rates. The Companies will propose and support in their transmission rate filing single rates for firm and non-firm transactions requiring the joint use of the transmission facilities

of both Companies. Such rates will be proposed to be effective: (a) at the beginning of the next MOKAN contract year for all utilities whose capacity obligations are determined on the basis of the MOKAN contract year, and (b) upon the date the Commission places the rates into effect subject to refund for all other customers.

Section 4. Firm transmission service shall be available for any length of time as short as one (1) year, and as long as thirty (30) years. The Companies shall provide firm transmission service to customers eligible for such service for less than one year, if needed to provide emergency, refueling or maintenance outage service. If the Companies provide firm transmission service to each other or to any other customer eligible for service under the Firm Wholesale Transmission Service Schedule for a term of less than one year, such service will be offered to other eligible customers on a non-discriminatory basis, as that term has been interpreted under Sections 205 and 206 of the Federal Power Act.

Section 5. Available transmission capacity shall be estimated and annually announced in a manner designed to provide prospective customers the opportunity to evaluate the availability of transmission service from the Companies.

Section 6. When a request for transmission service requires the construction of additional facilities, the Companies will determine the economic feasibility of the construction, as set forth in the Companies' Firm Wholesale Transmission Service Schedules. The cost of additional transmission facilities shall be charged to those customers who create the need for such additional facilities. There shall be no presumption that a transmission customer requesting service creates a need for additional facilities. The determination of which customer(s) creates the need for additional facilities shall be made on a case-by-case basis.

Section 7. The Companies recognize that their partial and full requirements customers located within their service areas are dependent upon the Companies for all transmission services. For

that reason, the Companies agree that in general, direct assignment of the costs of additional facilities for firm transmission service is applicable only for terminal facilities and for radial lines to points of delivery. Costs incurred to enhance the bulk transmission system will not be directly assignable to transmission-dependent utilities. In return for this commitment, the Companies will be the sole transmission provider(s) for these utilities to the extent such service is desired within or across the areas served by the Companies. These utilities must notify the Companies at least six (6) years prior to substituting other transmission service for that provided by the Companies. If a transmission-dependent utility receives transmission service from other than the Companies without providing at least six (6) years' notice to the Companies, such customer will no longer be considered a transmission-dependent utility for purposes of determining cost responsibility for additional facilities.

Section 8. The Companies agree that if extensions or renewals of contracts for firm transmission service with transmission-dependent customers in effect as of the date of this Offer require additional transmission facilities, the incremental cost responsibility for those facilities will be determined in accordance with Article I, Section 7 above.

Section 9. Line losses shall be calculated based on methodologies no different from those used to calculate line losses when the Companies use the transmission system to serve other customers receiving like services. Line losses for firm transmission service shall be calculated on an average basis and line losses for non-firm transmission service shall be calculated on an incremental basis. Customers will be provided the option to provide or purchase their own line losses.

Section 10. The Companies will: (i) use due diligence in completing construction of additional facilities, (ii) seek expedited resolution of any dispute concerning the construction of additional facilities, and (iii) seek expedited review of any agreement for construction of additional facilities.



Section 11. All interruptions and curtailments of firm transmission service shall be made on a pro rata basis across all firm retail, wholesale requirements and firm transmission loads affected by the interruption or curtailment.

Section 12. The Company or Companies providing service may require comparable service under similar terms and conditions to those provided in the Firm Wholesale Transmission Service Schedule from electric utilities<sup>2</sup> either ultimately supplying or receiving the capacity and energy transmitted under the Firm Wholesale Transmission Service Schedule. When a customer requests firm transmission service for capacity and energy originating outside the area served by the Company and terminating inside the area served by the Company, the Company reserves the right to select the electric utility ultimately supplying or ultimately receiving the capacity and energy transmitted under the Firm Wholesale Transmission Service Schedule to provide comparable service to the Company. When a customer requests transmission service for capacity and energy originating outside the area served by the Company for ultimate delivery outside the Company's service area, the customer reserves the right to select the electric utility ultimately supplying or ultimately receiving the capacity and energy transmitted<sup>3</sup> under the Firm Wholesale Transmission Service

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<sup>2</sup>For purposes of this Offer, "electric utility" includes any electric utility that sells electricity at wholesale or retail and is regulated by either federal or state regulatory authorities or is exempt from regulation by virtue of its status as a publicly-owned utility, rural electric cooperative, municipality or power authority.

<sup>3</sup>For example, if utility A is the generating electric utility and utility C is the electric utility ultimately receiving the capacity and energy transmitted by the Company, utilities A and C may select among themselves, the utility to provide the Company with comparable service. Utilities A and C retain their ability to make this selection even if an intermediary utility B delivers utility A's capacity and energy to the Company at the Company's point of receipt or is the utility receiving the capacity and energy at the

(continued...)

Schedule to provide comparable service to the Company. The electric utility providing comparable service agrees to provide firm wholesale transmission service to the Company in amounts up to the levels of transmission service requested from the Company. The Company may require that all comparable transmission services be made available to the Company for the same or shorter length of time as services provided to the Customer. However, the Company may begin its use of such service at any time within the term of the service provided to the Customer, unless otherwise agreed by the parties to the transmission transaction. If it is determined that existing facilities are inadequate to provide the Company comparable service, the electric utility required to provide comparable service will construct additional facilities for the Company's use under the same conditions afforded to customers eligible to receive Firm Wholesale Transmission Service from the Company and stated in Article I, Sections 6 and 10 herein. For purposes of this paragraph, the Companies shall not refuse to provide firm transmission service solely because the Companies have failed to obtain comparable service from a federal power marketing agency as defined in 16 U.S.C. § 796(19).

Section 13. The Companies agree that service agreements for non-firm transmission service to be provided under the Companies' proposed Non-Firm Wholesale Transmission Service Schedules in this proceeding will not be conditioned upon a commitment to provide comparable service to the Companies.

Section 14. Firm requirements and firm transmission service from the Companies under contract as of the date of this Offer will be provided by the Companies before additional firm transmission service under the Companies' Firm Wholesale Transmission Service Schedules shall be provided by the Companies.

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<sup>3</sup>(...continued)

Company's point of delivery for ultimate delivery to utility C. In this situation, utility B would not be required to provide comparable service to the Company.

Section 15. Assignment of transmission service to other customers eligible for such service under the Firm Wholesale Transmission Service Schedule shall be permitted. Where the assignee is making no change in the services being rendered, no agreement of the Companies is necessary, provided that, where the transmission service to be assigned includes cost responsibility for additional facilities, the assignee is able to satisfactorily demonstrate its ability to pay for the services rendered or, where the transmission service to be assigned includes no cost responsibility for additional facilities, the assignee provides the Companies with a security deposit equal to the cost of providing the transmission services for three (3) months. If the assignee does not agree with the Companies' determination of its ability to pay for services, the Companies and any interested parties shall submit the dispute to expedited arbitration. Any assignment shall be accepted only on the condition that the assignee undertake all obligations of the assignor. If the assignee is unable to demonstrate its ability to pay for the services received, assignment will not be permitted unless the assignor agrees to continue its responsibility for all obligations to the Companies.

Section 16. Within 60 days following the closing of the merger, the Companies agree to file pricing schedules; the initial estimate of available transmission capacity; a form of Service Agreement, which shall include all terms and conditions except those applicable to additional facilities; and a general methodology for calculating available capacity, which shall be applied on a case-by-case basis.

## ARTICLE II

### RESOLUTION OF ISSUES OTHER THAN TRANSMISSION

Section 1. The Companies may, in a subsequent rate proceeding, seek recovery of the jurisdictional portion of the acquisition adjustment recorded in FERC Account No. 114 related to

the merger only to the extent the net benefits of the merger equal or exceed the amount of the acquisition adjustment. In calculating the net benefits of the merger, due consideration shall be given to any adverse effect on the merged Company's cost of capital produced by the merger.

Section 2. No party will propose any change in the service schedules approved in compliance with Article I, Section 1 of this Offer until the Companies make the transmission rate filing required by Article I, Section 3 of this Offer. However, the parties reserve their rights to contest the documents listed in Article I, Section 15 of this Offer and any other documents filed in compliance with the Commission's Final Order in Docket No. EC91-2-000 to the extent that such documents are inconsistent with this Offer. The Companies will not use the execution of this Offer by any party to defend against such party's proposal to amend or revise service schedules filed at or beyond the time of the transmission rate filing required by Article I, section 3 of this Offer.

Section 3. In the first general filing by each Company for a change in base rates or rate design for full or partial requirements wholesale electric service following the closing date of the merger, not to include those filings described in Article II, Section 4 of this Offer, the filing Company will include workpapers showing (i) the cost of full and partial requirements wholesale electric service of the other Company, and (ii) the cost of full and partial requirements wholesale electric service of the combined Companies, developed on a single system basis. Such workpapers will include all of the information required in the Commission's regulations at 18 CFR Section 35.13. If the Companies elect to make simultaneous rate change filings and both Companies use the same test periods, one filing may reference the combined Companies' cost of service workpapers provided in the other filing, pursuant to 18 CFR 35.19.



Section 4. Following the closing date of the merger, the Companies agree to file amendments to existing contracts as necessary to reflect the following additional understandings<sup>4</sup>:

(A) A Stipulation and Agreement between the Companies and the Kansas Cities provides an opportunity for each full or partial requirements municipal customer to extend the term of its existing contract by up to ten (10) years.

(i) Contracts for partial requirements municipal customers electing to extend the term of their current contracts will also be subject to the following provisions:

(a) Changes to the present demand credit arrangements for City generation or entitlements or changes to the limitation on hours of generation required of the Cities will not be permitted on less than eighteen months notice, inclusive of any suspension period that may be ordered by the Commission, and will not be permitted at any time during the first three (3) years following the closing date of the merger.

(b) Any changes to the contract provisions initiated by the Companies and referenced in (a) above will permit the affected partial requirements municipal customers an opportunity

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<sup>4</sup>These items are parts of confidential agreements with individual parties and require filing with the Commission. They are included in this Offer for the Commission's information only. Commission approval of the items listed in Article II, Section 4 above is not requested at this time but will be sought in filings after the closing date of the merger. Further, the listing of these items is not intended to invoke rights under "most favored nations" clauses that may be present in agreements with individual parties, and is not intended to alter in any way the terms of those agreements or the confidential and privileged status of the portions of the individual agreements not listed.



to cancel their contracts upon eighteen (18) months written notice to the Companies if such notice is provided within ninety (90) days following the date of a final Commission order permitting such changes.

- (ii) Kansas Cities' Stipulation and Agreement provides that transmission charges for the delivery of requirements power and for transmission service to Cities in effect as of the date of the Stipulation and Agreement will not be changed for a period of five (5) years from the date of the Stipulation and Agreement.

(B) A Settlement Agreement between the Companies and Kansas Electric Power Cooperative, Inc. (KEPCo) provides for the following:

- (i) Sections 4.1, Coordination, 4.4, Capability Limit, 4.5, New Points of Delivery, and 4.6 Unusual Circumstances, of Article IV, Delivery Points and Delivery Transmission Service, and Article VI, Coordinating Committee, in its entirety, of that certain Electric Sales, Transmission and Service Contract between KPL and KEPCo, FERC No. 247, dated November 23, 1987, will be adopted by KG&E.
- (ii) The term of Article IX, Term and Effective Date, of that certain Electric Sales, Transmission and Service Contract between KPL and KEPCo, FERC No. 247, dated November 23, 1987, shall be modified to provide the same primary term as the term provided in Section 2.3 of the December 28, 1981, Transmission Agreement between Kansas Gas and Electric Company and Kansas Electric Power Cooperative, Inc., FERC No. 151.
- (iii) Subject to FERC approval, billing units for sales service from KG&E to KEPCo will be converted to reflect KEPCo's coincident peak responsibility with

KG&E's net system load, provided that appropriate pricing adjustments will be made to maintain revenue neutrality for the service rendered.

- (iv) The billing period for service from KPL to KEPCo will be adjusted to reflect calendar month billing beginning at 12:01 a.m. on the first day of each month.
- (C) The Oklahoma Municipal Power Authority Offer of Settlement provides that the current Participation Power Agreement, FERC No. 163, will be extended for five (5) years until December 31, 2005.
- (D) A new Interconnection Agreement between KPL and Kansas City, Kansas Board of Public Utilities will be filed with the Commission in accordance with its regulations at 18 CFR 35.3.

### ARTICLE III

#### EFFECTIVE DATE AND FURTHER CONDITIONS

Section 1. This Offer shall become effective when a Commission order approving it without condition has become final.

Section 2. The making of this Offer shall not be deemed in any respect to constitute an admission by any party that any allegation or contention in this proceeding is true and valid.

Section 3. The execution of this Offer by any party and its acceptance by the Commission shall not in any respect constitute a determination by the Commission as to the merits of any allegations or contentions made in these proceedings, nor constitute approval of, nor precedent regarding, any principle or issue in this proceeding.

Section 4. The discussions which have produced this Offer have been conducted on the explicit understanding, pursuant to Rule 602(e) of the Commission's Rules of Practice and Procedure, 18 CFR 385.602(e) (1987), that the Offer and any comments on the Offer are

not admissible in evidence against any party which objects to their admission except in a proceeding, if any, to enforce the terms of the Offer and that discussions with respect to the Offer are neither subject to discovery nor admissible in evidence except in a proceeding, if any, to enforce the terms of the Offer.

Section 5. This Offer is expressly conditioned upon the Commission's acceptance of all provisions hereof, in their entirety, without change or condition, unless the parties, excluding the Staff of the Commission, shall have indicated their consent to changes made or conditions imposed by the Commission by a filing with the Commission within thirty (30) days of the Commission's order. In the event the Commission should issue an order changing the Offer or conditioning its approval which is not so accepted by the parties, excluding the Staff of the Commission, the Offer shall be deemed withdrawn and shall not constitute any part of the record in this proceeding or be used for any other purpose, and each of its provisions shall be deemed to be null and void.

Section 6. Any number of counterparts of this Offer may be executed, and each shall have the same force and effect as an original instrument, as if all the parties to all the counterparts had signed the same instrument.

Section 7. Notwithstanding any provisions to the contrary in this Offer, the Companies will continue to honor all existing contracts and agreements, including agreements for or relating to transmission service, executed prior to the filing of this Offer with the Commission. Nothing in this Offer is intended to supersede or modify such contracts and agreements, except where expressly permitted in those contracts or agreements.

Section 8. The parties to this Offer of Settlement have executed this document as is evidenced by the attached signature pages.

DATED: April 29, 1991.

William E. Brown  
THE KANSAS POWER AND LIGHT COMPANY

Kent R. Brown  
KANSAS GAS AND ELECTRIC COMPANY

Becky Bruner  
STAFF OF THE FEDERAL ENERGY  
REGULATORY COMMISSION

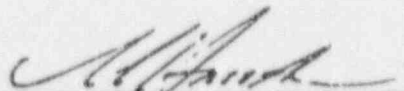
Seth H. H. H.  
STATE CORPORATION COMMISSION OF  
THE STATE OF KANSAS

MISSOURI PUBLIC SERVICE COMMISSION

Charles W. Lunt  
KANSAS ELECTRIC POWER COOPERATIVE,  
INC.

Charles F. Whetley Jr.  
KANSAS CITIES

Don H. Miden  
KANSAS CITY, KANSAS BOARD OF PUBLIC  
UTILITIES



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SUNFLOWER ELECTRIC POWER CORPORATION

---

THE CITY OF WICHITA, KANSAS

---

AMERICAN PUBLIC POWER ASSOCIATION

---

AD HOC COMMITTEE FOR A COMPETITIVE  
ELECTRIC SUPPLY SYSTEM

---

AMERICAN IRON AND STEEL INSTITUTE

---

ELECTRICITY CONSUMERS RESOURCE  
COUNCIL

---

AMERICAN PAPER INSTITUTE



UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

The Kansas Power and Light	)	
Company and Kansas Gas and	)	Docket No. EC91-2-000
Electric Company	)	

ADDENDUM TO  
OFFER OF SETTLEMENT

The Kansas Power and Light Company (KPL); Kansas Gas and Electric Company (KG&E) (hereafter collectively referred to as Companies); the Staff of the Federal Energy Regulatory Commission (Staff); the State Corporation Commission of the State of Kansas; Kansas Electric Power Cooperative, Inc. (KEPCo); Kansas Cities; Kansas City, Kansas Board of Public Utilities (BPO); and Sunflower Electric Power Corporation (Sunflower) have agreed to the Offer of Settlement, dated April 29, 1991, in Federal Energy Regulatory Commission Docket No. EC91-2-000. The parties named above shall collectively be referred to as the Original Signing Parties.

This Addendum to Offer of Settlement is executed and agreed to by all Original Signing Parties in addition to the American Paper Institute (API) and the Electricity Consumers Resource Council (ELCON), as set forth below:

(1) ELCON and API, as evidenced by the signatures of their authorized representatives hereto, agree to this Addendum to Offer of Settlement and to the Offer of Settlement, as modified by this Addendum to Offer of Settlement.

(2) The Original Signing Parties, as evidenced by the signatures of their authorized representatives hereto, agree to this Addendum to Offer of Settlement and reaffirm their agreement to the Offer of Settlement, as modified by this Addendum to Offer of Settlement.

(3) The pro forma Firm and Non-firm Wholesale Transmission Service Schedules attached to this Addendum to Offer of Settlement as Appendices A and B are to be substituted, in their entirety, for the pro forma Firm and Non-firm Wholesale Transmission Service Schedules attached to the Offer of Settlement as Appendices 1 and 2; Appendices 1 and 2 to the Offer of Settlement are withdrawn and of no force and effect.

(4) The reference, in Article II, Section 2 of the Offer of Settlement (Page 8, Line 11) to "Article I, Section 15" is changed to refer to "Article I, Section 16."

(5) This Addendum to Offer of Settlement is subject to all of the conditions and terms of the Offer of Settlement, except as expressly modified herein.

(6) This Addendum to Offer of Settlement shall be executed in multiple counterparts, so that all parties need not execute the same counterpart. The Original shall be the Addendum to Offer of Settlement executed by KPL and KG&E. The signature page of each executed counterpart shall be returned to KPL and KG&E and attached to the Original, which shall then be filed with the Federal Energy

Regulatory Commission. This Addendum to Offer of Settlement shall be deemed to be effectively executed when counterparts have been executed by all parties hereto and their signature pages attached to the Original.

DATED: May 20, 1991

William E. Brown  
THE KANSAS POWER AND LIGHT COMPANY

Kent R. Brown  
KANSAS GAS AND ELECTRIC COMPANY

\_\_\_\_\_  
STAFF OF THE FEDERAL ENERGY  
REGULATORY COMMISSION

\_\_\_\_\_  
KANSAS ELECTRIC POWER COOPERATIVE,  
INC.

\_\_\_\_\_  
KANSAS CITIES

\_\_\_\_\_  
KANSAS CITY, KANSAS BOARD OF PUBLIC  
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ELECTRICITY CONSUMERS RESOURCE  
COUNCIL

\_\_\_\_\_  
AMERICAN PAPER INSTITUTE

THE KANSAS POWER AND LIGHT COMPANY

KANSAS GAS AND ELECTRIC COMPANY

Becky Bruner by [signature]  
STAFF OF THE FEDERAL ENERGY  
REGULATORY COMMISSION

KANSAS ELECTRIC POWER COOPERATIVE,  
INC.

KANSAS CITIES

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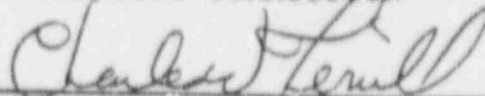
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THE KANSAS POWER AND LIGHT COMPANY

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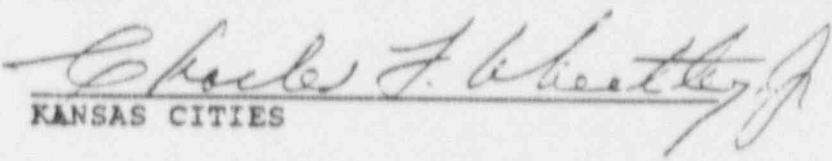
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KANSAS GAS AND ELECTRIC COMPANY

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REGULATORY COMMISSION

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INC.

  
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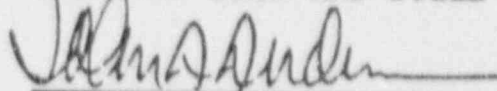
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STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

APPENDIX A  
KANSAS GAS AND ELECTRIC COMPANY  
FIRM WHOLESALE TRANSMISSION SERVICE SCHEDULE (YT)<sup>1</sup>

I. Availability

- 1.1 Service hereunder is available to any Eligible Customer to the extent capacity is available under the terms of this Service Schedule and in accordance with Service Agreements between the Company and the Eligible Customer.
- 1.2 The Company may require comparable service under similar terms and conditions to those provided in this Service Schedule from electric utilities either ultimately supplying or receiving the capacity and energy transmitted under this Service Schedule. When a Customer requests firm transmission service for capacity and energy originating outside the area served by the Company and terminating inside the area served by the Company, the Company reserves the right to select the party ultimately supplying or ultimately receiving the capacity and energy transmitted under this Service Schedule to provide comparable service to the Company. When a Customer requests transmission service for capacity and energy originating outside the area served by the Company for ultimate delivery outside the Company's Service Area, the Customer reserves the right to select the party ultimately supplying or ultimately receiving the capacity and energy transmitted under this Service Schedule to provide comparable service to the Company. The party providing comparable service agrees to

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<sup>1</sup>This form sets forth the pro forma service schedule for KG&E. Language which will differ in the KPL schedule is shown in footnotes.

provide firm wholesale transmission service to the Company for transmitting capacity and energy in amounts up to the levels of transmission service requested from the Company. The Company may require that all comparable transmission services be made available to the Company for the same or shorter length of time as services provided to the Customer. However, the Company may begin its use of such service at any time within the term of the service provided to the Customer unless otherwise agreed by the parties. If it is determined that existing facilities are inadequate to provide the Company comparable service, the electric utility required to provide comparable service will construct Additional Facilities for the Company's use under the same conditions afforded to Eligible Customers in Paragraph 3.3 herein. For purposes of this paragraph, the Companies shall not refuse to provide firm transmission service solely because the Companies have failed to obtain comparable service from a federal power marketing agency as defined in 16 U.S.C. § 796(19).

- 1.3 Requests for service from Eligible Customers will be accommodated on a first come, first served basis to the extent service from existing facilities is available. Where capacity is inadequate to provide the requested service, the remaining adequate capacity will be allocated among simultaneous requests proportionately. Requests made within a calendar month will be considered simultaneous for purposes of such allocation.

- 1.4 Firm Wholesale Transmission Service will take priority over all non-firm transactions, including those of the Company.

## II. Definitions

- 2.1 "Additional Facilities" are those facilities which do not exist as of the date of the Request for Service and must be placed in service to accommodate all or some portion of the Request for Service.
- 2.2 "Commission" means the Federal Energy Regulatory Commission or such successor federal regulatory agency as may have jurisdiction over this Service Schedule.
- 2.3 "Company" is Kansas Gas and Electric Company.<sup>2</sup>
- 2.4 "Company's Point of Delivery" or "Point of Delivery" (POD) is a point or points of connection on the Company's Transmission System between the Company and the Receiving Party or the Receiving Party's authorized agent where capacity and energy to be transmitted by the Company will be made available to such Receiving Party. Depending on the voltage level at which service is received and delivered, limited distribution facilities may also be used to provide transmission service.
- 2.5 "Company's Point of Receipt" or "Point of Receipt" (POR) is a point or points of connection on the Company's Transmission System between the Company and the Delivering Party or the Delivering Party's authorized agent where capacity and energy not originating on the Company's system

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<sup>2</sup>The Kansas Power and Light Company.

to be transmitted by the Company will be made available to the Company by such Delivering Party. Depending on the voltage level at which service is received and delivered, limited distribution facilities may also be used to provide transmission service.

- 2.6 "Contract Year" shall be a period of twelve (12) consecutive months beginning on June 1 of each calendar year during the term hereof unless otherwise mutually agreed by the parties.
- 2.7 "Delivering Party" is the entity delivering the capacity and energy to the Company for transmission pursuant to this Service Schedule.
- 2.8 "Eligible Customer" or "Customer" means any electric utility that sells electricity at wholesale or retail and is regulated by either federal or state regulatory authorities or is exempt from regulation by virtue of its status as a publicly owned utility, rural electric cooperative, municipality or power authority. An Eligible Customer may be a Delivering Party, a Receiving Party or both. A Qualifying Facility requesting to transmit capacity and energy that it has generated or will generate will be considered an Eligible Customer if it serves or intends to serve a Willing Buyer.
- 2.9 "Firm Wholesale Transmission Service" as used herein shall mean the use of the Company's Transmission System for the purpose of transmitting electric capacity and energy. Firm Wholesale Transmission Service will be continuously available subject to curtailment or interruption due to events and circumstances specified in Section VI,



Interruptions, of this Service Schedule. Depending on the voltage level at which service is received and delivered, limited distribution facilities may also be used to provide transmission service.

- 2.10 "Pro Rata Share" means the Customer's maximum expected use of Additional Facilities, expressed in kilowatts, as a percentage of the design capacity of Additional Facilities, expressed in kilowatts. A Customer's Pro Rata Share may range from zero to 100%. The sum of all Pro Rata Shares shall not exceed the design capacity.
- 2.11 "Qualifying Facility" means a cogeneration facility or small power production facility which is a qualifying facility under Subpart B of the Commission's regulations at 18 CFR 292.
- 2.12 "Receiving Party" is the entity receiving the capacity and energy from the Company pursuant to this Service Schedule.
- 2.13 "Request for Service" is a request for Firm Wholesale Transmission Service made and maintained consistent with the provisions herein.
- 2.14 "Service Agreement" is a binding agreement for the provision of Firm Wholesale Transmission Service between the Company and the Customer. The Service Agreement shall set forth the basic terms and conditions of service in the form of the Company's standard Service Agreement for Firm Wholesale Transmission Service [to be provided with the compliance filing referenced in Article I, Section 1 of the Offer of Settlement] and any additional terms and conditions of

service required to effect the transaction and define the responsibilities of the parties.

2.15 "Service Area" or "area served by the Company" is the geographic area in which the Company's retail Customers and transmission-dependent utility customers are located.

2.16 "Transmission System" is the Company's interconnected network of transmission facilities at 69 kV<sup>3</sup> and above.

2.17 "Willing Buyer" means an Eligible Customer other than a Qualifying Facility that is willing to purchase or to consider purchasing capacity and energy from a Qualifying Facility. Unless otherwise noted therein, an open request by an Eligible Customer for proposals to supply it with capacity and energy will be sufficient for the Company to assume that the Eligible Customer is a Willing Buyer of capacity and energy from a Qualifying Facility.

### III. Arrangements for Service

#### 3.1 Requests for Service: Information Requirements

- (a) A Customer requesting service under this Service Schedule must submit a written Request for Service to: Vice President, Electric Production and Dispatch, The Kansas Power and Light Company, 818 Kansas Avenue, Topeka, Kansas 66612 at least ninety (90) days, but not more than one (1) year, in advance of the calendar month in which service is to commence. A Qualifying Facility requesting service must also provide a written statement from an Eligible Customer that the Eligible

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<sup>3</sup>34.5 kV.

Customer is a Willing Buyer. Alternatively, a Qualifying Facility may submit a written statement that its Request for Service is in response to an open request by an Eligible Customer for proposals to supply capacity and energy. If the review of a Request for Service and the receipt of any needed regulatory approvals can be completed in less than ninety (90) days, then service will be provided on less than ninety (90) days notice if requested by the Customer.

- (b) If Additional Facilities are required to initiate the requested service, the maximum one year advance notice requirement will be waived to the extent needed to complete construction of the Additional Facilities. Exceptions to the normal one-year maximum advance notice requirement for Requests for Service will be granted on a case-by-case basis to accommodate the Customer's reasonable needs to plan for future contractual commitments and construction of generating facilities.
- (c) The Request for Service shall specify the following:
  - (1) the identity, address and telephone number of the Customer requesting service,
  - (2) a statement that the entity requesting service is, or will be upon commencement of service, an Eligible Customer under this service schedule,
  - (3) the location of the POR and POD, the identity of the Delivering Party supplying the capacity and energy, and the identity of the Receiving Party,
  - (4) the seller and the expected generating facility(s) supplying the capacity and energy,
  - (5) a description of the supply characteristics of the capacity and energy to be delivered (e.g.,

whether the capacity and energy is firm, unit-specific or as-available; base load or peaking; or subject to seasonal requirements and limitations),

- (6) an estimate of the capacity and energy expected to be delivered to the Receiving Party in each Contract Year,
- (7) the term of the purchase and the term of the requested service, and
- (8) the transmission capacity requirement for each POR (1,000 kilowatt minimum) and each POD (no minimum) on the Company's transmission system. A group of Customers may combine their purchases from a single source to comply with the minimum transmission capacity requirement.

### 3.2 Timing of Requests for Service and Notice Requirements

- (a) Available transmission capacity shall be estimated and annually announced by the Company in a manner designed to provide prospective Customers the opportunity to evaluate the availability of Firm Wholesale Transmission Service from the Company.
- (b) The Company will review the Customer's Request for Service and respond to the Customer in writing within forty-five (45) days. The Company's review may include a study of the impact of the request on the Company's transmission system. The Company's study will be based upon the methodology set forth in its Methodology for Quantification of Transmission Capacity, attached at Schedule \_\_ [to be provided with the compliance filing referenced in Article I, Section 1 of the Offer of Settlement]. If requested, the study shall be made

available to the Customer. If the Request for Service is complete and sufficient capacity is available for the requested term, and upon execution of a Service Agreement, the Company will commence service on the date requested. The executed Service Agreement shall be tendered for filing in accordance with the Commission's regulations at 18 CFR 35.3(a). If necessary, the Company may seek waivers to this requirement in order for the Service Agreement to become effective as agreed upon by the Company and the Customer. If the Company does not have sufficient capacity available for the time period specified in the Request for Service, it will notify the Customer in writing.

- (c) Requests for Firm Wholesale Transmission Service will take priority over requests for all non-firm transactions, including those of the Company.
- (d) In order to make new firm sales of bulk power from capacity which the Company owns in whole or part or holds an entitlement, the Company shall file a Request for Service pursuant to the procedures of this Firm Wholesale Transmission Service Schedule. The Company's request shall be treated in the same manner as any other valid Request for Service and be accommodated according to the provisions of Paragraph 1.3.

### 3.3 Provision for Additional Facilities

- (a) Whenever a request for Firm Wholesale Transmission Service requires the construction of Additional Facilities, the Company will follow the following principles:



- (1) The Company will determine the economic feasibility of providing that service under its then existing Pricing Schedule. In making that determination, the Company will consider the additional revenue, if any, to be produced and the cost of the Additional Facilities. If it is determined that all or part of the Additional Facilities are not economically feasible under the Company's Pricing Schedule, the Company shall have the right to charge the cost of such Additional Facilities to those Customers who create the need for such facilities.
- (2) There shall be no presumption that a transmission Customer requesting service creates a need for Additional Facilities. The determination of which Customer(s) creates the need for a new facility shall be made on a case-by-case basis.
- (3) The Company will not require Customers requesting Firm Wholesale Transmission Service to pay for Additional Facilities that are added beyond the Company's ten (10) year planning horizon.
- (4) The Company recognizes that its partial and full requirements wholesale municipal and rural electric cooperative Customers located within its Service Area are dependent upon the Company for all transmission services. For that reason, the Company agrees that, in general, direct assignment of costs of Additional Facilities to such transmission-dependent utilities is applicable only for terminal facilities and for radial lines to points of delivery. Costs incurred to enhance the bulk transmission system will not be directly

assignable to such transmission-dependent utilities. In return for this commitment, the Company will be the sole transmission provider for these utilities to the extent such service is desired within or across the area served by the Company. These utilities must notify the Company at least six (6) years prior to substituting other transmission service for that provided by the Company. If a transmission-dependent utility receives transmission service from other than the Company without providing at least six (6) years' notice to the Company, such Customer will no longer be considered a transmission-dependent utility for purposes of determining cost responsibility for Additional Facilities.

- (b) If requested by the Customer, the Company will within forty-five (45) days of such request, develop a description of the Additional Facilities that would need to be added to provide the requested service. If the Company determines that a direct assignment of some or all of the costs of Additional Facilities to the Customer is warranted under the provisions of Paragraph 3.3(a), the Company will: (1) prepare a non-binding estimate of the cost of Additional Facilities required to provide the service; and (2) calculate a proposed Pro Rata Share of Additional Facilities to be paid by the Customer. The non-binding cost estimate will include a 25 percent contingency for unknown and unplanned-for occurrences related to the Additional Facilities.
- (c) If the Customer requests that the Company develop the binding cost estimate and agrees in writing to pay the

cost of developing a binding cost estimate, the Company will develop the binding cost estimate and will calculate the Customer's Pro Rata Share of the binding cost estimate within forty-five (45) days of such request or as soon as practicable. The binding cost estimate shall be the Company's best estimate of the maximum cost of the Additional Facilities to the Customer and shall include a 25 percent contingency for unknown and unplanned-for occurrences related to the Additional Facilities. If the amount of the binding cost estimate is greater than the non-binding cost estimate, the Customer may refuse to pay and no Additional Facilities will be constructed. If the amount of the binding cost estimate is less than or equal to the amount of the non-binding cost estimate, the Customer may also refuse to pay for the Additional Facilities, but is required to pay for the cost of developing the binding cost estimate. In no event will the Customer be responsible for more than its Pro Rata Share of the actual cost of the required Additional Facilities.

- (d) If the Customer agrees to pay its Pro Rata Share of the binding cost estimate, or the Company determines that direct assignment of the cost of Additional Facilities to the Customer is not warranted, the Company will tender a Service Agreement to the Customer within twenty (20) days. If the Service Agreement is executed, the Company will tender the Service Agreement for filing in accordance with the Commission's regulations at 18 CFR 35.3(b). If necessary, the Company may seek waivers to this requirement in order for the Service Agreement to become effective as agreed

upon by the Company and the Customer. The Service Agreement must be accepted for filing by the Commission before the Company will be obligated to begin construction of the Additional Facilities.

- (e) If the Company and the Customer do not agree upon the amount of the binding cost estimate or the Pro Rata Share (if any) to be paid by the Customer, the Company shall tender a Service Agreement to the Customer. If the Company and the Customer are unable to agree upon a Service Agreement, the disputed issue(s) may be referred to the Commission for resolution under its rules and procedures for such matters. In order to maintain a valid Request for Service, the Customer must provide the Company a binding written commitment to receive and pay for the requested service under the terms, conditions and rates determined to be just and reasonable by the Commission. In order to maintain a valid Request for Service, a Customer requesting service under this Schedule for a project financed transaction must also provide the Company with a guarantee to payment in an amount equal to the Customer's Pro Rata Share of the cost of the Additional Facilities as estimated in the binding cost estimate. In order to maintain a valid Request for Service, a Customer requesting service under this Schedule that is not for a project financed transaction must also provide the Company with a security deposit in an amount equal to one year's carrying charges on the Customer's Pro Rata Share of the cost of the Additional Facilities as estimated in the binding cost estimate. If the Customer has complied with these requirements, the Company shall, at the Customer's request begin,

within ninety (90) days, seeking all necessary regulatory approvals for construction of Additional Facilities and file an unexecuted Service Agreement with the Commission for resolution of the dispute regarding the Service Agreement within twenty (20) days of the Customer's request that it do so. The security deposit shall be credited against any cost responsibility for Additional Facilities assigned by the Commission to the Customer. The security deposit is refundable with interest calculated according to the Commission's regulations at 18 CFR 35.19a to the extent such deposit exceeds the Customer's cost responsibility for Additional Facilities as determined by the Commission.

- (f) The Company will: (i) seek expedited review of any Service Agreement for construction of Additional Facilities; (ii) seek expedited resolution of any dispute concerning the responsibility for payment of costs of Additional Facilities; and (iii) use due diligence in completing construction of the Additional Facilities.
- (g) The Company shall give the Customer at least thirty (30) days written notice prior to the completion of the Additional Facilities ("Advance Notice"). Promptly upon completion of the Additional Facilities, the Company shall notify the Customer in writing that service can commence ("Final Notice").
- (h) Within ten (10) days of receipt of the Final Notice, the Customer shall commence paying the charges and rates set forth in the Service Agreement or established by the Commission, unless otherwise agreed by the parties.

### 3.4 Other Requirements

- (a) Capacity and energy received at the POR shall be delivered to the POD less the transmission line losses specified in the Pricing Schedule. Alternatively, the Customer may elect in writing to purchase such transmission line losses from the Company.
- (b) Customers shall make all appropriate contractual arrangements for delivery of said capacity and energy to the POR, and when applicable, beyond the POD.
- (c) The Customer is obligated to pay all generation and transmission service charges and other related charges incurred in delivering the Customer's capacity and energy to the POR, and when applicable, beyond the POD.
- (d) A Qualifying Facility will only be considered an Eligible Customer with respect to service provided under this Service Schedule so long as it has a Willing Buyer. Capacity and energy from a Qualifying Facility to a Willing Buyer will not be transmitted under this Service Schedule if: (i) the Willing Buyer is no longer willing to purchase such capacity and energy from the Qualifying Facility and has no legal or contractual obligation to do so, or (ii) the Qualifying Facility attempts to use the transmission service hereunder to serve an unwilling buyer. The Qualifying Facility is obligated to report any change in the status of a Willing Buyer to the Company within twenty-four (24) hours of receipt by the Qualifying Facility of notification from the Willing Buyer of such a change.



IV. Payment

- 4.1 Where no Additional Facilities are necessary to initiate the service or maintain the service during the term of the requested service, billing and payment for Firm Wholesale Transmission Service shall be in accordance with the terms of the Pricing Schedule for this service [to be provided with the compliance filing referenced in Article I, Section 1 of the Offer of Settlement].
- 4.2 Where Additional Facilities are necessary to initiate the service or maintain the service during the term of the requested service, the rates and charges for such service shall be in accordance with the Service Agreement filed with the Commission. All changes ordered by the Commission to the rates, charges, terms and conditions of the Service Agreement shall be honored by the parties, including any necessary refunds or surcharges.

V. Scheduling

- 5.1 By May 15 of each year, the Customer shall furnish the Company a monthly schedule of anticipated deliveries to the POR and related receipts at the POD under this Service Schedule for the succeeding Contract Year. By 2:00 p.m. on Thursday of each week, the Customer will furnish to the Company's dispatcher a schedule for delivery of said power on an hourly basis for each day of the next calendar week. Hourly schedules shall be in one (1) MW increments. A group of Customers may combine their purchases from a single source to comply with the minimum transmission capacity requirement. Daily schedules may be changed at any time prior to 1:00 p.m. of the day preceding the day a new delivery schedule is to be effective. Changes shall be

promptly confirmed in writing if requested by either party. The Company dispatcher shall furnish said schedule to the utility delivering the capacity and energy to the Company's Service Area.

VI. Interruptions

6.1 The Company will use due diligence to furnish Firm Wholesale Transmission Service under this Service Schedule, but it does not guarantee uninterrupted transmission of electricity. The Company shall not be liable for any claim of damage attributable to any interruption or reduction of service due to:

- (a) inadequacy of supply, equipment, facilities or because of uncontrollable forces except when such interruption is the result of reckless, willful or wanton acts of the Company, its agents or employees,
- (b) any cause which the Company could not reasonably have foreseen and made provision against,
- (c) any operating decisions, which in the Company's judgment, are necessary to maintain reliable service or to protect the Company's generation or transmission facilities, or
- (d) maintenance, repairs, replacements, or installations of equipment, or the investigation and inspection of such equipment. To the extent practicable, the Company will provide reasonable advance notice to the Customer of any scheduled interruptions, reductions or other impairments of scheduled Firm Wholesale Transmission Service.

6.2 All interruptions and curtailments of Firm Wholesale Transmission Service shall be made on a pro rata basis across all firm retail, wholesale requirements and firm

transmission loads affected by the interruption or curtailment.

VII. Modification of Terms of Service and Transferability

7.1 If a Firm Wholesale Transmission Service Customer requests a change in the Points of Receipt or Delivery, or a change in any other operating term or condition applicable to the Customer, the Company will consent to such change only if to do so will not impair the operation and reliability of the Company's generation, transmission, or distribution systems, and on the condition that the Customer agrees to compensate the Company for any additional costs resulting from such change.

7.2 Assignment of transmission service to other Eligible Customers shall be permitted. Where the assignee is making no change in the services being rendered, no agreement of the Company is necessary, provided that the assignee satisfies its obligations in Paragraphs 7.2(a) or 7.2(b), as applicable. Any assignment shall be accepted only on the condition that the assignee undertake all obligations of the assignor. If the assignee fails to satisfy its obligations under Paragraphs 7.2(a) or 7.2(b), as applicable, assignment will not be permitted unless the assignor continues to assume responsibility for all obligations to the Company.

(a) Where the transmission service to be assigned includes no cost responsibility for Additional Facilities, the assignee must satisfactorily demonstrate its ability to pay for the services to be received from the Company. The assignee's ability to pay may be demonstrated by providing the Company with an advance

security deposit equal to the cost of providing the transmission services for three (3) months.

- (b) Where the transmission service to be assigned includes cost responsibility for Additional Facilities, the assignee must satisfactorily demonstrate its ability to pay for the services received from the Company. Within fifteen (15) days of receiving a statement of intent to assign from a Customer, the Company shall notify the assignor and the assignee of its determination of whether the assignee is able to pay for the services to be received. If the assignee does not agree with such determination, the parties shall submit the dispute to expedited arbitration.
- (c) In addition to the requirements in Paragraphs 7.2(a) and 7.2(b) above, where a Customer proposes an assignment of service to a Qualifying Facility, the Qualifying Facility must have a Willing Buyer to receive the capacity and energy to be transmitted before such assignment will be permitted. The Qualifying Facility must also provide a written statement from the Willing Buyer to the Company indicating an intent to purchase capacity and energy from the Qualifying Facility.

#### VIII. Commission and Other Approvals

- 8.1 Nothing contained herein shall be construed as affecting in any way the right of the Company or the Customer to unilaterally make application to the Federal Energy Regulatory Commission for a change in rates, charges, classification or service, or any rule or regulation related thereto, under Sections 205 or 206 of the Federal Power Act

and pursuant to the Commission's Rules and Regulations promulgated thereunder.

- 8.2 Service under this Service Schedule is conditioned upon the receipt of any necessary approvals for the construction and operation of facilities and compliance with all applicable laws and regulations.

IX. Term

- 9.1 The minimum term for Firm Wholesale Transmission Service shall be one year. The Company may provide Firm Wholesale Transmission Service for less than one year, if needed to provide emergency, refueling or maintenance outage service. The maximum service period is 30 years unless otherwise agreed by the parties. If the Companies provide firm transmission service to each other or to any other Eligible Customer for a term of less than one year, such service will be offered to other wholesale customers on a non-discriminatory basis, as that term has been interpreted under Sections 205 and 206 of the Federal Power Act.



APPENDIX B  
KANSAS GAS AND ELECTRIC COMPANY  
NON-FIRM WHOLESALE TRANSMISSION SERVICE (NT)<sup>1</sup>

I. Availability

- 1.1 Service hereunder is available to any Eligible Customer to the extent capacity is available under the terms of this Service Schedule and in accordance with Service Agreements between the Company and the Eligible Customer.
- 1.2 NT service requests from Eligible Customers will be accommodated on a first come, first served basis to the extent service from existing facilities is available. Where capacity is inadequate to provide the requested service, capacity will be allocated among simultaneous requests proportionately.
- 1.3 The Company will maintain records of unfulfilled requests for Non-Firm Wholesale Transmission Service by Eligible Customers and an explanation of the reason service was not available.

II. Definitions

- 2.1 "Commission" means the Federal Energy Regulatory Commission or such successor federal regulatory agency as may have jurisdiction over this Service Schedule.
- 2.2 "Company" is Kansas Gas and Electric Company<sup>2</sup>.

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<sup>1</sup>This form sets forth the pro forma service schedule for KG&E. Language which will differ in the KPL schedule is shown in footnotes.

<sup>2</sup>The Kansas Power and Light Company.



- 2.3 "Company's Point of Delivery" or "Point of Delivery" (POD) is a point or points of connection on the Company's Transmission System between the Company and the Receiving Party or the Receiving Party's authorized agent where energy to be transmitted by the Company will be made available to such Receiving Party. Depending on the voltage level at which service is received and delivered, limited distribution facilities may also be used to provide transmission service.
- 2.4 "Company's Point of Receipt" or "Point of Receipt" (POR) is a point or points of connection on the Company's Transmission System between the Company and the Delivering Party or the Delivering Party's authorized agent where energy not originating on the Company's system to be transmitted by the Company will be made available to the Company by such Delivering Party. Depending on the voltage level at which service is received and delivered, limited distribution facilities may also be used to provide transmission service.
- 2.5 "Delivering Party" is the entity delivering the energy to the Company for transmission pursuant to this Service Schedule.
- 2.6 "Eligible Customer" or "Customer" means any electric utility that sells electricity at wholesale or retail and is regulated by either federal or state regulatory authorities or is exempt from regulation by virtue of its status as a publicly owned utility, rural electric cooperative, municipality or power authority. An Eligible Customer may be a Delivering Party, a Receiving

Party or both. A Qualifying Facility requesting to transmit energy that it has generated or will generate will be considered an Eligible Customer if it serves or intends to serve a Willing Buyer.

- 2.7 "Non-Firm Wholesale Transmission Service" as used herein shall mean the use of the Company's Transmission System for the purpose of transmitting electric energy. Service available hereunder may vary and be limited from time to time depending on the Company's system loads and other operating conditions as determined by the Company. Depending on the voltage at which service is received and delivered, limited distribution facilities may also be used to provide transmission services.
- 2.8 "Qualifying Facility" means a cogeneration facility or small power production facility which is a qualifying facility under Subpart B of the Commission's regulations at 18 CFR 292.
- 2.9 "Receiving Party" is the entity receiving the energy from the Company pursuant to this Service Schedule.
- 2.10 "Request for Service" is a request for Non-Firm Wholesale Transmission Service made and maintained consistent with the provisions herein.
- 2.11 "Service Agreement" is a binding agreement for the provision of Non-Firm Wholesale Transmission Service between the Company and the Customer. The Service Agreement shall set forth the basic terms and conditions of service in the form of the Company's standard Service

Agreement for Non-Firm Wholesale Transmission Service [to be provided with the compliance filing referenced in Article I, Section 1 of the Offer of Settlement] and any additional terms and conditions of service required to effect the transaction and define the responsibilities of the parties.

2.12 "Transmission System" is the Company's interconnected network of transmission facilities at 69 kV<sup>3</sup> and above.

2.13 "Willing Buyer" means an Eligible Customer other than a Qualifying Facility that is willing to purchase or to consider purchasing energy from a Qualifying Facility. Unless otherwise noted therein, an open request by an Eligible Customer for proposals to supply it with energy will be sufficient for the Company to assume that the Eligible Customer is a Willing Buyer of energy from a Qualifying Facility.

### III. Arrangements for Service

3.1 The Customer shall make arrangements for NT Service with the Company's dispatcher prior to 4:00 p.m. of the day preceding the proposed transaction or at other times as may be agreed. Before the Company agrees to provide NT service, the Customer must specify the following in a Request for Service:

- (a) an oral statement that the entity requesting service is, or will be upon commencement of service, an Eligible Customer under this service schedule,

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<sup>3</sup>34.5 kV.

- (b) the location of the POR and POD, the identity of the Delivering Party supplying the energy, and the identity of the Receiving Party,
- (c) the seller and the expected generating facility(s) supplying the energy,
- (d) the term of the requested NT Service, and
- (e) the transmission capacity requirement for each POR (1,000 kilowatts minimum) and each POD (no minimum) on the Company's transmission system. NT transactions are to occur in 1,000 kilowatt increments with a 1,000 kilowatt minimum. A group of eligible Customers may combine their purchases from a single source to comply with the minimum transmission capacity requirement.

The required information may be provided orally if it is confirmed in writing before commencement of service. A Qualifying Facility requesting service must also provide a written statement from an Eligible Customer that the Eligible Customer is a Willing Buyer. Alternatively, a Qualifying Facility may submit a written statement that its Request for Service is in response to an open request by an Eligible Customer for proposals to supply energy.

All written Requests for Service shall be addressed to: Vice President, Electric Production and Dispatch, The Kansas Power and Light Company, 818 Kansas Avenue, Topeka, Kansas 66612.

- 3.2 Upon receiving a request for Non-Firm Wholesale Transmission Service, a Service Agreement between the Company and the Customer will be executed as soon as practicable and tendered for filing in accordance with

the Commission's regulations at 18 CFR 35.3(a). If necessary, the Company may seek waivers to this requirement in order for the Service Agreement to become effective as agreed upon by the Company and the Customer. However, if the parties have previously executed and filed with the Commission a Service Agreement applicable to all forms of NT service to be provided by the Company to the Customer, no additional filings are necessary.

- 3.3 The Customer shall make all appropriate contractual arrangements for delivery of said energy to the POR and when applicable, beyond the POD.
- 3.4 The Customer is obligated to pay all generation and transmission service charges and other related charges incurred in delivering the Customer's energy to the POR, and when applicable, beyond the POD.
- 3.5 A Qualifying Facility will only be considered an Eligible Customer with respect to service provided under this Service Schedule so long as it has a Willing Buyer. Energy from a Qualifying Facility to a Willing Buyer will not be transmitted under this Service Schedule if: (i) the Willing Buyer is no longer willing to purchase such energy from the Qualifying Facility and has no legal or contractual obligation to do so, or (ii) the Qualifying Facility attempts to use the transmission service hereunder to serve an unwilling buyer. The Qualifying Facility is obligated to report any change in the status of a Willing Buyer to the Company within twenty-four (24) hours of receipt by the Qualifying Facility of notification from the Willing Buyer of such a change.



IV. Payment

4.1 Billing and payment for Non-Firm Wholesale Transmission Service shall be in accordance with the terms of the Pricing Schedule for this service [to be provided with the compliance filing referenced in Article I, Section 1 of the Offer of Settlement].

V. Curtailement

5.1 The Company reserves the right to restrict or terminate NT Service if its continuation would impair the Company's ability to maintain firm services to its other customers.

5.2 All transactions under this Service Schedule shall be provided on an as-available basis. The Company may reduce the level of NT service being provided when necessary to ensure the safe and reliable operation of its system. The Company will give reasonable notice as operating conditions allow, of a need to reduce NT service.

VI. Commission and Other Approvals

6.1 Nothing contained herein shall be construed as affecting in any way the right of the Company or the Customer to unilaterally make application to the Federal Energy Regulatory Commission for a change in rates, charges, classification or service, or any rule or regulation related thereto, under Sections 205 or 206 of the Federal Power Act and pursuant to the Commission's Rules and Regulations promulgated thereunder.



VII. Term

- 7.1 Individual transactions under this Servi      le may  
not be scheduled for longer than six      nuous  
months, unless agreed by the parties.

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

The Kansas Power and Light	)	
Company and Kansas Gas and	)	Docket No. EC91-2-000
Electric Company	)	

Explanatory Statement

On December 11, 1990, Kansas Power & Light Company ("KPL") and Kansas Gas & Electric Company ("KG&E") (jointly "the Companies") filed a Joint Application for Expedited Authorization and Approval of Merger pursuant to § 203 of the Federal Power Act. By order dated January 30, 1991,<sup>1</sup> the Federal Energy Regulatory Commission ("the Commission") set for hearing issues relating to the effect of the merger on costs and rates and the effect of the merger on competition.

On May 20, 1991, after extensive negotiations between KPL, KG&E, the Commission Staff, and the other parties to this docket, the Companies filed an Offer of Settlement and Addendum to Offer of Settlement which would resolve all of the issues in this docket. The Offer of Settlement and Addendum thereto have been signed by KPL; KG&E; the Staff of the Federal Energy Regulatory Commission; the State Corporation Commission of the State of Kansas; Kansas Electric Power Cooperative, Inc.; Kansas Cities; Kansas City, Kansas Board of Public Utilities; Sunflower Electric Power

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<sup>1</sup>54 F.E.R.C. ¶ 61,077 (1991).

Corporation; Electricity Consumers Resource Council; and the American Paper Institute. The following parties have withdrawn or have asked to withdraw from this docket: Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwest Electric Power Company, Utilicorp United, Inc., Oklahoma Municipal Power Authority, and Williams Natural Gas Company. No party to this proceeding opposes the Settlement.

Although KPL and KG&E have denied that the merger has anticompetitive effects, the service schedules accompanying the Offer of Settlement are intended to ameliorate any potential anticompetitive effects, to the extent that any exist. The Settlement requires that, in any subsequent rate proceeding where the Companies seek recovery of the jurisdictional portion of an acquisition adjustment related to the merger, due consideration shall be given to any adverse effect produced by the merger on the merged Companies' cost of capital.

A brief description of the Offer of Settlement ("the Settlement") and accompanying service schedules follows.<sup>2</sup>

A. Transmission Issues

Under the Settlement, KPL and KG&E will separately file service schedules for new firm and non-firm wholesale transmission service, in the form of the pro forma service schedules attached

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<sup>2</sup> Nothing in this Explanatory Statement shall be used as a basis for a determination of the meaning of the provisions of the Settlement summarized herein.

as Appendices A and B to the Addendum to Offer of Settlement, within sixty days after the merger is closed. The Companies will recognize cost differentials for services that utilize different voltage levels.

In addition, within six months after the Commission's approval of the service schedules to be filed in compliance with the Settlement, the Companies will make a transmission rate filing which will propose and support single transmission rates for firm and non-firm transactions requiring the joint use of the transmission facilities of both Companies. The single transmission rates will be effective (a) at the beginning of the next MOKAN contract year for all utilities whose capacity obligations are determined on the basis of the MOKAN contract year;<sup>3</sup> and (b) for all other utilities, upon the date the Commission places the rates into effect subject to refund. The filing for single transmission rates will be based on then-current cost and load data.

1. Description of Firm Transmission Service.

a. Eligibility. Wholesale firm transmission service is available to any Eligible Customer to the extent that capacity is available or can be added pursuant to the provisions of the service schedules for additional facilities. Service will be provided in accordance with service agreements between the Companies and their customers. An "Eligible Customer" is any

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<sup>3</sup> The MOKAN contract year begins on June 1.

electric utility that sells electricity at wholesale or retail and is regulated by either federal or state regulatory authorities or is exempt from regulation due to its status as a publicly owned utility, rural electric cooperative, municipality or power authority. A Qualifying Facility requesting to transmit capacity and energy that it has generated or will generate will be considered an Eligible Customer if it serves or intends to serve a "Willing Buyer," as defined in the Companies' service schedules.

b. Reciprocity. Both Companies have the option to require comparable service under similar terms and conditions and in amounts similar to those provided under their respective service schedules. When a customer requests firm transmission service for capacity and energy originating outside the Company's service area but terminating within the Company's service area, the Company may select the party ultimately supplying or ultimately receiving the capacity and energy which will provide comparable service. When a customer requests transmission of capacity and energy originating outside the Company's service area for ultimate delivery outside the Company's service area (i.e., the transmission service requested merely goes across the service area), the customer may select the party (either the ultimate supplier or ultimate receiver) to provide comparable service. The comparable service must be firm wholesale transmission of capacity and energy in amounts up to the level of transmission requested from the

Company. If existing facilities are inadequate to provide comparable service, additional facilities will be constructed under the same conditions required of the Companies (described below).

c. Available Capacity. On a yearly basis, the Companies shall estimate and announce available transmission capacity so that prospective customers may evaluate the Companies' available capacity. The specific amount of available capacity for each transaction will be determined on a case-by-case basis within a specified time-frame, based upon a statement of methodology that will be a filed attachment to the Firm Wholesale Transmission Service Schedules. The Firm Wholesale Transmission Service Schedules are designed to accommodate service requests based on the MOKAN contract year planning cycle. The Companies, however, will also accept requests more than one year in advance to accommodate planning lead-times for new generation and long-term power contracts.

d. Priority. Requests for firm wholesale transmission service have priority over requests for non-firm service, including requests for non-firm service made by the Companies. Firm requirements and firm transmission service obligations existing as of the date of the Settlement will be provided before additional firm transmission service under the Companies' Firm Wholesale Transmission Service Schedules will be provided. Requests for service from Eligible Customers will be accommodated on a first



come, first served basis to the extent capacity is available. Where capacity is inadequate, the remaining capacity will be allocated proportionately among simultaneous requests.<sup>4</sup>

e. Additional facilities. If a request for service requires construction of additional facilities, the Company or Companies providing service will determine the economic feasibility of providing that service under its then-existing Pricing Schedule. If any or all of the additional facilities are not economically feasible under the Company's Pricing Schedule, the Company may charge the cost of the additional facilities to the customers creating the need for such facilities. There is no presumption, however, that a request for service creates a need for additional facilities. The determination of which customer(s) create a need for additional facilities shall be made on a case-by-case basis, as shall the share of cost to be directly assigned to a customer. If the Company and customer disagree as to the amount of cost to be borne by the customer or as to which customer should bear cost responsibility, the dispute may be referred to the Commission for resolution. The Companies' service schedules describe when the Companies may become obligated to provide a description of proposed additional facilities and a cost estimate therefore, and the customers' rights and obligations in connection

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<sup>4</sup>For purposes of this service schedule, requests will be treated as simultaneous if they are made within the same calendar month.

with the request, the cost of estimate development, and payment for additional facilities.

f. Transmission-Dependent Utilities. In

recognition of their dependency upon the Companies' transmission services, partial and full requirements wholesale municipal and rural electric cooperative customers located within the Companies' service areas may be directly assigned the costs of additional facilities for firm transmission service only for terminal facilities and for radial lines to points of delivery. Costs incurred to enhance the bulk transmission system will not be directly assignable to these transmission-dependent utilities. In exchange for this commitment, these transmission-dependent utilities have agreed that the Companies will be their sole transmission provider(s) to the extent such service is desired within or across the areas served by the Companies. Transmission-dependent utilities must notify the Companies at least six years prior to substituting other transmission service for the service provided by the Companies.<sup>5</sup> If a transmission-dependent utility receives transmission service from other than the Companies without having provided the required notice, such customer will no longer be considered a transmission-dependent utility for the purposes of determining cost-responsibility for additional facilities.

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<sup>5</sup>This notice period is consistent with the Companies' notice provisions for requirements service.

g. Term of Transmission Service. Firm transmission service may be purchased for periods ranging from one to thirty years, and for less than one year to eligible customers if needed to provide emergency, refueling, or maintenance outage service. If either of the Companies provide firm transmission service for a period of less than one year to each other or to another eligible customer, that service will be offered to other eligible customers on a nondiscriminatory basis.

h. Interruptions. Although the Companies are committed to using due diligence to furnish firm wholesale transmission service, they do not guarantee uninterrupted transmission of electricity and expressly limit their liability for interruptions. All interruptions and curtailments of firm transmission service shall be made on a pro rata basis across all firm retail, wholesale requirements, and firm transmission loads affected by the interruption or curtailment.

i. Changes in Service Schedules. Nothing in the service schedules affects the Companies' and customers' rights unilaterally to make application to the Commission under §§ 205 or 206 of the Federal Power Act for a change in rates, charges, classification or service, or any rule or regulation related thereto.

j. Scheduling and Modifications. Customers shall furnish the Company monthly schedules of anticipated deliveries and

receipts by May 15 before the contract year. Hourly schedules will be furnished to the Company's dispatcher by 2:00 p.m. on Thursday before each calendar week. The Companies will permit customers to modify hourly power schedules prior to 1:00 p.m. of the preceding day. Customers may modify receipt and delivery points, provided that such changes do not impair system operation and reliability, and the customer compensates the Companies for any additional costs.

k. Assignment. The Companies will permit assignment of firm transmission service to other customers eligible for such service under the Companies' firm transmission service schedule. Where the assignment causes no change in the service being provided, agreement of the Company or Companies is not necessary, so long as the assignee is able to demonstrate satisfactorily its ability to pay for any transmission service that includes cost responsibility for additional facilities, or, where the transmission service to be assigned includes no cost responsibility for additional facilities, the assignee provides the Company(ies) with a security deposit equal to the cost of providing the transmission services for three months. All assignments are conditioned on the assignee's assumption of all of the obligations of the assignor. If the assignee is unable to demonstrate its ability to pay for the services assigned to it, assignment will not be permitted unless the assignor continues its responsibility for

all obligations to the Companies. Any disputes over the Companies' determination of an assignee's ability to pay shall be submitted to expedited arbitration.

2. Description of Non-firm Transmission Service.

a. Availability. Customers that are eligible for firm service are also eligible for non-firm service. (Specific arrangements for non-firm service to transmission-dependent utilities are addressed in other existing rate schedules on file with the Commission.) There is no reciprocity requirement in connection with the purchase of non-firm transmission service.

b. Additional Facilities. There is no provision requiring the Companies to construct additional facilities in connection with non-firm service.

c. Term. Individual transactions may not be scheduled for longer than six continuous months unless otherwise agreed by the parties.

d. Changes in Service Schedules. Nothing in the service schedules affects the Companies' and customers' rights unilaterally to make application to the Commission under §§ 205 or 206 of the Federal Power Act for a change in rates, charges, classification or service, or any rule or regulation related thereto.

3. Line Loss Provision. Line losses shall be calculated based on methodologies no different from those used to



calculate line losses when the Companies use the transmission system to serve other customers receiving like services. Line losses for firm transmission service shall be calculated on an average basis and line losses for non-firm transmission service shall be calculated on an incremental basis. Customers will have the option to provide or purchase their own line losses.

4. Additional Documents to be Filed.

a. Documents to be filed within 60 days. Within sixty days after the closing of the merger, the Companies will file pricing schedules; the initial estimate of available transmission capacity; a form of Service Agreement, which shall include all terms and conditions except those applicable to additional facilities; and a general methodology for calculating available capacity, which shall be applied on a case-by-case basis.

b. Single Transmission Rate Filing. As indicated previously, within six months after the Commission's approval of the service schedules filed in compliance with the Settlement, the Companies will make a transmission rate filing that will propose and support single rates for firm and non-firm transactions requiring the joint use of the transmission facilities of both Companies. This filing will contain all cost data and operating parameters for the Companies necessary to evaluate alternate cost-based firm transmission rates.



c. General Rate Filing. In the first general filing by each Company for a change in base rates or rate design for full or partial requirements wholesale electric service<sup>6</sup> following the closing date of the merger, the filing Company will include workpapers showing (1) the cost of full and partial requirements wholesale electric service of the other Company, and (2) the cost of full and partial requirements wholesale electric service of the combined Companies, developed on a single system basis. Such workpapers will include information required by 18 C.F.R. § 35.13. If both Companies elect to make simultaneous rate change filings and use the same test periods, one filing may reference the combined Companies' cost of service workpapers provided in the other filing, pursuant to 18 C.F.R. § 35.19.

B. Non-Transmission Issues.

1. Acquisition Costs. In a subsequent rate proceeding, the Companies may seek recovery of the jurisdictional portion of the acquisition adjustment recorded in FERC Account No. 114 related to the merger only to the extent the net benefits of the merger equal or exceed the amount of the acquisition adjustment. In calculating the net benefits of the merger, due consideration is

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<sup>6</sup> The filings pertaining to or reflecting agreements with other parties to this docket as described in Article II, § 4 of the Offer of Settlement do not constitute a general rate filing under this section.

to be given to any adverse effect on the merged Company's cost of capital attributable to the merger.

2. Agreement Not to Propose Changes to Service Schedules Filed in Compliance with Settlement. The parties have agreed not to propose any change to the Companies' service schedules filed in compliance with the Settlement until the Companies make the single transmission rate filing as described above. However, the parties have reserved their rights to contest the documents listed in Article I, § 16 of the Offer of Settlement and any other documents required to be filed by the Commission's Final Order in this docket, to the extent any such documents are inconsistent with the Settlement.

3. Settlements with Other Parties. Following the closing date of the merger, the Companies will file amendments to existing contracts as necessary to reflect and implement agreements they have reached with other parties, as described in Article 2, Section 4 of the Offer of Settlement. Kansas City Power and Light Company ("KCPL") has agreed to file a motion to withdraw as soon as FERC has approved certain filings by KG&E pursuant to §§ 203 and 205 of the Federal Power Act related to its Wolf Creek lease with KCPL.<sup>7</sup>

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<sup>7</sup> The § 205 filing has been made and assigned Docket No. ER91-391-000. The § 203 filing has been made but no docket number has been assigned.

C. Effective Date and Other Conditions. The Settlement will become effective when a Commission order approving it without condition becomes final. The Settlement may not be deemed an admission by any party that any contention or allegation in this docket is true or valid. Acceptance of the Settlement by the Commission shall not constitute a determination by the Commission on the merits, nor constitute approval of nor precedent regarding any principle or issue in this proceeding. The Settlement was negotiated under the understanding that the Offer of Settlement and any comments on the Settlement are not admissible in evidence against any party objecting to them, and that discussions with respect to the Settlement are not subject to discovery and are not admissible in evidence except in a proceeding, if any, to enforce the terms of the Settlement.

The Settlement is expressly conditioned upon the Commission's acceptance of the Settlement without change or limitation, unless the parties (excluding Commission staff) shall indicate their consent to such changes by [redacted] with the Commission within 30 days of the Commission's order. [redacted] Settlement shall be deemed withdrawn if the Commission orders changes to the Settlement which are not accepted by the parties, and in such event, the Settlement may not be used for any purpose.

UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners:

The Kansas Power and Light	)	
Company and Kansas Gas and	)	Docket No. EC91-2-000
Electric Company	)	

ORDER APPROVING SETTLEMENT AND AUTHORIZING MERGER

(Issued \_\_\_\_\_, 1991)

On December 11, 1991, Kansas Power and Light Company (KPL) and Kansas Gas and Electric Company (KG&E) (jointly "the Companies" or "Applicants") filed an application pursuant to section 203 of the Federal Power Act, 16 U.S.C. § 824b (1988), for approval of a proposed merger between the Applicant's respective companies, and the transfer to KPL of KG&E's jurisdictional facilities. Under the Merger Agreement between the Companies, KG&E will be merged into KCA Corporation ("KCA"), a newly formed subsidiary of KPL. If the proposed transaction is completed, KG&E will become a wholly-owned subsidiary of KPL.

On May 20, 1991, KPL and KG&E filed an Offer of Settlement and Addendum to Offer of Settlement in this proceeding. The Offer of Settlement and Addendum thereto have been signed by KPL; KG&E; the Staff of the Federal Energy Regulatory Commission; the State Corporation Commission of the State of Kansas; Kansas Electric

Power Cooperative, Inc.; Kansas Cities; Kansas City, Kansas Board of Public Utilities; Sunflower Electric Power Corporation; Electricity Consumers Resource Council; and the American Paper Institute. The following parties have withdrawn or have asked to withdraw from this docket: Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwest Electric Power Company, Utilicorp United, Inc., Oklahoma Municipal Power Authority, and Williams Natural Gas Company. No party to this proceeding opposes the Settlement.

The Offer of Settlement and Addendum thereto resolve all issues in the proceeding. Comments in support of the settlement were filed by the Commission Staff and by KPL and KG&E. Presiding Administrative Law Judge Jon G. Lotis certified the Offer of Settlement to the Commission on \_\_\_\_\_, 1991.

The Commission finds that the Offer of Settlement, including the Addendum to Offer of Settlement (jointly "the Settlement") represents a reasonable resolution of the issues, and that the Settlement is consistent with the public interest as required by Section 203(a) of the Federal Power Act, 16 U.S.C. § 824b(a) and with the factors set forth by the Federal Power Commission in Commonwealth Edison Company, 36 F.P.C. 927, 931 (1966), aff'd sub nom. Utility Users League v. FPC, 394 F.2d 16 (7th Cir. 1968), cert. denied, 393 U.S. 953 (1968). The terms of the Settlement are described and discussed below.



A. Description of the Settlement

The principal provisions of the Settlement are as follows:

1. Transmission Service Schedules

KPL and KG&E will separately file service schedules for new firm and non-firm wholesale transmission service within sixty days after the merger is closed. These service schedules will be in the form of the pro forma service schedules attached as Appendices A and B to the Addendum to Offer of Settlement. These service schedules will implement many of the terms of the Settlement, as discussed below.

2. Single Transmission Rates

Within six months after the Commission's approval of the service schedules to be filed in compliance with the settlement, the Companies will make a transmission rate filing which will propose and support single transmission rates for firm and non-firm transactions requiring the joint use of the transmission facilities of both Companies. The single transmission rates will be effective (a) at the beginning of the next MOKAN contract year for all utilities whose capacity obligations are determined on the basis of the MOKAN contract year;<sup>1</sup> and (b) for all other utilities, upon the date the Commission places the rates into effect subject to

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<sup>1</sup> The MOKAN contract year begins on June 1.



refund. The filing for single transmission rates will be based on then-current costs and load data.

3. Firm Transmission Service

a. Eligibility. Wholesale firm transmission service is made available to any Eligible Customer to the extent that capacity is available or can be added pursuant to the provisions of the service schedules for additional facilities. Service will be provided in accordance with service agreements between the Companies and their customers. An "Eligible Customer" is any electric utility that sells electricity at wholesale or retail and is regulated by federal or state regulatory authorities or is exempt from regulation by virtue of its status as a publicly owned utility, rural electric cooperative, municipality or power authority. A Qualifying Facility requesting to transmit capacity and energy that it has generated or will generate will be considered an Eligible Customer if it serves or intends to serve a "Willing Buyer," as defined in the Companies' service schedules.

b. Reciprocity. Both Companies have the option to require comparable service under similar terms and conditions and in amounts similar to those provided under their respective service schedules. Under the Settlement, when a customer requests firm transmission service for capacity and energy originating outside the Company's service area but terminating within the Company's service area, the Company may select the party ultimately

supplying or ultimately receiving the capacity and energy to provide comparable service. When a customer requests transmission of capacity and energy originating outside the Company's service area for ultimate delivery outside the Company's service area (i.e., the transmission service requested merely goes across the service area), the customer may select the party (either the ultimate supplier or ultimate recipient) to provide comparable service. The comparable service must be firm wholesale transmission of capacity and energy in amounts up to the level of transmission requested from the Company. If existing facilities are inadequate to provide comparable service, additional facilities will be constructed under the same conditions required of the Companies (described below).

c. Available Capacity. On a yearly basis, the Companies shall estimate and announce available transmission capacity so that prospective customers may evaluate the Companies' available capacity. The specific amount of available capacity for each transaction will be determined on a case-by-case basis within a specified time-frame, based upon a statement of methodology that will be a filed attachment to the Firm Wholesale Transmission Service Schedules. The Firm Wholesale Transmission Service Schedules are designed to accommodate service requests based on the MOKAN contract year planning cycle. The Companies, however, will also accept requests made more than one year in advance to

accommodate planning lead times for new generation and long-term power contracts.

d. Priority. Requests for firm wholesale transmission service have priority over requests for non-firm service, including requests for non-firm service made by the Companies. Firm requirements and firm transmission service obligations existing as of the date of the Offer of Settlement will be provided before additional firm transmission service under the Companies' Firm Wholesale Transmission Service Schedules will be provided. Requests for service from Eligible Customers will be accommodated on a first come, first served basis to the extent capacity is available. Where capacity is inadequate, the remaining capacity will be allocated proportionately among simultaneous requests.<sup>2</sup>

e. Additional Facilities. If a request for firm service requires construction of additional facilities, the Company or Companies providing service will determine the economic feasibility of providing that service under its then-existing Pricing Schedule. If any or all of the additional facilities are not economically feasible under the Company's Pricing Schedule, the Company may charge the cost of the additional facilities to the customers creating the need for such facilities. There is no

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<sup>2</sup>For purposes of this service schedule, requests will be treated as simultaneous if they are made within the same calendar month.

presumption, however, that a request for service creates a need for additional facilities. The determination of which customer(s) create a need for additional facilities shall be made on a case-by-case basis, as shall the share of cost to be directly assigned to a customer. Disputes as to the amount of cost to be borne by the customer or as to which customer should bear cost responsibility may be referred to the Commission for resolution.

f. Transmission-Dependent Utilities. In recognition of their dependency upon the Companies' transmission services, partial and full requirements wholesale municipal and rural electric cooperative customers located within the Companies' service areas may be directly assigned the costs of additional facilities for firm transmission service only for terminal facilities and for radial lines to points of delivery. Costs incurred to enhance the bulk transmission system will not be directly assignable to these transmission-dependent utilities. In exchange for this commitment, these transmission-dependent utilities have agreed that the Companies will be their sole transmission provider(s) to the extent such service is desired within or across the areas served by the Companies. If a transmission-dependent utility receives transmission service from other than the Companies without having provided the required notice, such customer will no longer be considered a transmission-

dependent utility for the purposes of determining cost-responsibility for additional facilities.

g. Interruptions. All interruptions and curtailments of firm transmission service shall be made on a pro rata basis across all firm retail, wholesale requirements, and firm transmission loads affected by the interruption or curtailment.

h. Assignment. The Companies will permit assignment, under certain conditions, of firm transmission service to other customers eligible for such service under the Companies' firm transmission service schedule. If the assignee is unable to demonstrate its ability to pay for the services assigned to it, assignment will not be permitted unless the assignor continues its responsibility for all obligations to the Companies. Any disputes over the Companies' determination of an assignee's ability to pay shall be submitted to expedited arbitration.

4. Description of Non-firm Transmission Service

Customers that are eligible for firm service are also eligible for non-firm service. (Specific arrangements for non-firm service to transmission-dependent utilities are addressed in other existing rate schedules on file with the Commission.) There is no reciprocity requirement in connection with the purchase of non-firm transmission service; nor is there any provision requiring the Companies to construct additional facilities in connection with non-firm service.



5. Line Loss Provision

Line losses shall be calculated based on methodologies no different from those used to calculate line losses when the Companies use the transmission system to serve other customers receiving like services. Line losses for firm transmission service shall be calculated on an average basis and line losses for non-firm transmission service shall be calculated on an incremental basis. Customers will have the option to provide or purchase their own line losses.

6. Acquisition Costs

In a subsequent rate proceeding, the Companies may seek recovery of the jurisdictional portion of the acquisition adjustment recorded in FERC Account No. 114 related to the merger only to the extent the net benefits of the merger equal or exceed the amount of the acquisition adjustment. In calculating the net benefits of the merger, due consideration is to be given to any adverse effect on the merged Company's cost of capital attributable to the merger.

7. Agreement Not to Propose Changes to Service Schedules Filed in Compliance with Settlement

The parties have agreed not to propose any change to the Companies' service schedules filed in compliance with the Settlement until the Companies make the single transmission rate filing as described above.



B. Discussion

KPL and KG&E have requested from the Commission authorization to consummate a merger, pursuant to Section 203 of the Federal Power Act. Section 203 provides, in part:

No public utility shall sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of \$50,000, or by any means whatsoever, directly or indirectly, merge or consolidate such facilities or any part thereof with those of any other person, or purchase, acquire, or take any security of any other public utility, without first having secured an order of the Commission authorizing it to do so.

16 U.S.C. § 824b(a) (1988). Both KPL and KG&E are public utilities subject to the Commission's jurisdiction under the Federal Power Act. The proposed transaction falls within the jurisdiction of Section 203 and requires Commission authorization.

The Commission may approve a proposed merger upon a finding that the transaction is consistent with the public interest. However, a showing of positive benefit to the public is not required; only a showing of compatibility with the public interest is necessary. Pacific Power & Light Co. v. FPC, 111 F.2d 1014, 1016 (9th Cir. 1940).

As indicated previously, originating in Commonwealth Edison Company, 36 F.P.C. 927, 931 (1966), aff'd sub nom. Utility Users League v. FPC, 394 F.2d 16 (7th Cir. 1968), cert. denied, 393 U.S. 953 (1968), the Commission has developed a series of factors to be considered in evaluating the consistency of a proposed merger with

the public interest: "(1) the effect of the proposed transaction on operating costs and rate levels; (2) the contemplated accounting treatment; (3) the reasonableness of the purchase price; (4) the existence of coercion; (5) the effect on the existing competitive situation; and (6) the impairment of effective regulation by this Commission or the appropriate state regulatory authority." Central Vermont Public Service Corp. and Allied Power and Light Co., 52 F.E.R.C. ¶ 61,278, at 62,101 (1990), Rehearing Denied and Clarification Granted, 53 F.E.R.C. ¶ 61,204 (1990). In the Commission's Order Granting Interventions and Establishing Expedited Hearing Procedures, issued January 30, 1991, it set only two of these issues for hearing: (1) the effect of the merger on costs and rates, and (2) the effect of the merger on the competitive situation.

No party contests this merger, conditioned by the Settlement. The Settlement has been agreed to or not opposed by all of the parties in this docket. Having reviewed the Offer of Settlement and Addendum thereto, the comments filed, and the pro forma service schedules filed by the Companies, the Commission concludes that the merger, as conditioned by the Settlement, is consistent with the public interest. Accordingly, the Commission approves the Settlement and the merger, and authorizes the Companies to implement the merger.

The Commission Orders:

(A) The Offer of Settlement and Addendum to Offer of Settlement filed in this docket on May 20, 1991, are approved in accordance with the terms of such offer.

(B) The merger as conditioned by the Offer of Settlement and Addendum to Offer of Settlement is consistent with the public interest and is approved and authorized pursuant to § 203 of the Federal Power Act, 16 U.S.C. § 824b(a) (1988).

(C) The Companies may, in a subsequent rate proceeding, seek recovery of the jurisdictional portion of the acquisition adjustment recorded in FERC Account No. 114 related to the merger only to the extent that the net benefits of the merger equal or exceed the amount of the acquisition adjustment. In calculating the net benefits of the merger, due consideration shall be given to any adverse effect on the merged Company's cost of capital produced by the merger.

(D) KPL and KG&E are ordered to make within sixty (60) days of the date of this Order the following compliance filings: 1) service schedules, in the form of Appendices A and B to the Addendum to Offer of Settlement, under which firm and non-firm wholesale transmission services will be provided; 2) pricing schedules; 3) the initial estimate of available transmission capacity; 4) a form of Service Agreement, which must include all terms and conditions except those applicable to additional

facilities; and 5) a general methodology for calculating available capacity, which shall be applied on a case-by-case basis.

(E) KPL and KG&E are ordered to make, within six months of Commission approval of the compliance filings listed in Paragraph D above, a transmission rate filing seeking approval of single rates for firm and non-firm transactions requiring the joint use of the transmission facilities of both Companies. This filing must contain all cost data and operating parameters for the Companies necessary to evaluate alternate cost-based firm transmission rates.

(F) When KPL and KG&E each make, jointly or individually, a filing for a change in base rates or rate design for full or partial requirements wholesale electric service following the closing date of the merger, the filing Company is ordered to include workpapers showing (1) the cost of full and partial requirements wholesale electric service of the other Company, and (2) the cost of full and partial requirements wholesale electric service of the combined Companies, developed on a single system basis. Such workpapers must include all of the information required in the Commission's regulations at 18 C.F.R. § 35.13. If the Companies elect to make simultaneous rate change filings and both Companies use the same test periods, one filing may reference the combined Companies' cost of service workpapers provided in the other filing, pursuant to 18 C.F.R. § 35.19.

(G) Nothing in the Companies' service schedules affects the Companies' and customers' rights unilaterally to make application to the Commission under §§ 205 or 206 of the Federal Power Act for a change in rates, charges, classification or service, or any rule or regulation related thereto.

(H) The Commission's approval of this Settlement does not constitute approval of, or precedent regarding, any principle or issue in this proceeding. The Commission's approval of this Settlement is not in any respect a determination by the Commission as to the merits of any allegations or contentions made in this proceeding.



FERC DOCKET EC91-2-000

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was hand delivered/mailed this 20th day of May, 1991, by First Class U.S. Mail, to the following parties of record:

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G. Earl Watkins

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF THE APPLICATION  
OF THE KANSAS POWER AND LIGHT  
COMPANY FOR AN ORDER THAT  
APPROVAL OF A PROPOSED MERGER  
INVOLVING KANSAS GAS AND  
ELECTRIC COMPANY IS NOT WITHIN  
THIS COMMISSION'S JURISDICTION

Cause No. PUD 001021

**FILED**

APR 26 1991

COURT CLERK'S OFFICE -- OKC  
CORPORATION COMMISSION  
OF OKLAHOMA

STIPULATION

WHEREAS, The Kansas Power and Light Company ("KPL") filed its Application on December 28, 1990, requesting the Commission to issue an Order determining that the proposal to merge Kansas Gas and Electric Company ("KG&E") with and into a subsidiary of KPL, in accordance with the agreement and plan of merger attached to the Application, is not a matter within the jurisdiction of this Commission;

WHEREAS, KPL is a combination electric and natural gas public utility, duly licensed as a foreign corporation to do business in the state of Oklahoma as a natural gas public utility;

WHEREAS, KPL's Oklahoma operations are regulated by this Commission pursuant to 17 O.S. 1981, §152;

WHEREAS, KG&E is a public utility involved in the generation, transmission, distribution, and sale of electric power in Southcentral and southeastern Kansas;

WHEREAS, KG&E neither owns nor operates any property in Oklahoma, nor does it serve any retail customers of any kind in Oklahoma;

WHEREAS, KG&E does not own, operate nor manage any plant or equipment in Oklahoma, or supply any retail commodity in Oklahoma; but has provided certain wholesale services to Oklahoma utilities pursuant to tariffs and rate schedules approved by the Federal Energy Regulatory Commission.

WHEREAS, KG&E is not authorized to exercise the right of eminent domain in Oklahoma, nor does it have any franchises in Oklahoma.

WHEREAS, as a result of the proposed merger, KG&E will not gain control of KPL within the meaning of 17 O.S. Supp. 1987, §191.1 (4), or 17 O.S. Supp. 1983, §191.2;



WHEREAS, The proposed merger would not result in KG&E acquiring any plant or facilities or beginning any retail operations in Oklahoma;

WHEREAS, the merger will not result in any change in the operations of KPL in Oklahoma;

WHEREAS, the proposed merger will have no adverse impact on rates, rate design, operating expenses or terms and conditions of service of KPL in Oklahoma;

NOW THEREFORE, it is agreed and Stipulated as follows:

1. KG&E is not a domestic public utility within the meaning of 17 O.S. Supp. 1987, §191.1 (8) and the Commission exercises no jurisdiction over KG&E pursuant to 17 O.S. 1981, §151, §152, or §191.2
2. KG&E is not a public service corporation within the meaning of the Oklahoma Constitution Article 9, §34.
3. As a result of the merger, there shall not have occurred any fundamental change in KPL's cost of capital, as determined in Cause No. PUD 000708, or in the nature of KPL's business.
4. The issue of how the costs savings resulting from the merger and the recovery of the costs of the merger will be reflected in the Oklahoma jurisdictional rates and charges of KPL will be addressed in a separate cause.
5. KPL and KG&E do not own or have under their respective control any parallel or competing lines in the state of Oklahoma.
6. The Commission does not have authority to approve or disapprove the merger, the proposed financing or the other transactions necessary to complete them.
7. It is recognized that the Commission has continuing jurisdiction over the Intrastate operations of KPL and that neither this stipulation nor an Order, if issued pursuant to this stipulation, will preclude the Commission from the subsequent exercise of its lawful authority to regulate the intrastate Oklahoma operations of KPL, prior to and subsequent to the proposed merger of KPL and KG&E.

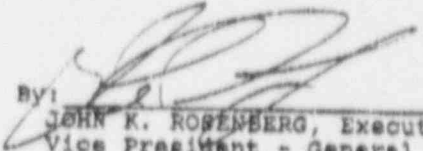


8. This Stipulation is subject to approval by the Commission. The individual provisions of this Stipulation are not severable. If the Commission fails to approve it in its entirety, or if a court of competent jurisdiction disapproves any one of the provisions of this Stipulation, then no party shall be bound by the other provisions herein.

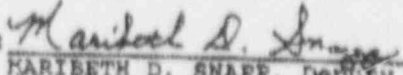
WHEREFORE, the parties respectfully submit this Stipulation to the Oklahoma Corporation Commission and request its approval.

THE KANSAS POWER & LIGHT  
COMPANY

OKLAHOMA CORPORATION COMMISSION

By:   
JOHN K. ROSENBERG, Executive  
Vice President - General Counsel

MICHAEL C. PENDERGAST, Managing  
Attorney - Regulation

By:   
KARIBETH D. SNAPP, Deputy  
General Counsel

JOHN W. GRAY, JR., Assistant  
General Counsel

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF THE APPLICATION  
OF THE KANSAS POWER AND LIGHT  
COMPANY FOR AN ORDER THAT  
APPROVAL OF A PROPOSED MERGER  
INVOLVING KANSAS GAS AND  
ELECTRIC COMPANY IS NOT WITHIN  
THIS COMMISSION'S JURISDICTION.

CAUSE NO. PUD 001021

ORDER NO. 356671

HEARING: May 2, 1991 before Robert E. Goldfield, Administrative  
Law Judge

APPEARANCES:

John K. Rosenberg, Executive Vice President, General  
Counsel; Michael C. Pendergast, Managing Attorney  
Regulation; and Ron Comingdeer, Attorneys on  
Behalf of The Kansas Power and Light Company;  
Maribeth D. Snapp, Deputy General Counsel; and John  
W. Gray, Jr., Assistant General Counsel, Public  
Utility Division, Oklahoma Corporation Commission  
Alice Mitchell, Office of the Attorney General

ORDER

The Corporation Commission of the State of Oklahoma being regularly in session and the undersigned Commissioners being present and participating, there comes on for consideration and decision the Application of The Kansas Power and Light Company (KPL) for an Order finding that approval of a proposed merger between KPL and Kansas Gas and Electric Company (KG&E) is not within this Commission's jurisdiction.

On December 28, 1990, KPL filed an Application requesting a determination from the Commission that its approval of the merger between KPL and KG&E is not within the Commission's jurisdiction. In support of its Application, KPL states that as a result of the proposed merger, KG&E would not gain control of KPL within the meaning of 17 O.S. Supp. 1987, §191.1(4), or 17 O.S. Supp. 1983 §191.2. Moreover, the proposed merger would not result in KG&E acquiring any plant or facilities nor beginning any operations in Oklahoma. KPL also states that the merger will not result in any change in the operations of KPL in Oklahoma and will have no adverse impact on rates, rate design, operating expenses or terms of service for KPL in Oklahoma. Because KG&E has no Oklahoma operations, KPL indicated that the proposed merger will not affect competition in the furnishing of utility service in Oklahoma. KPL also points out that neither of the parties to the merger or their affiliates operate any parallel or competing lines within this jurisdiction.

On April 26, 1991, a Stipulation was filed which was signed by attorneys for the Oklahoma Corporation Commission and the Applicant, The Kansas Power and Light Company. It was agreed to in the Stipulation, among other things, that the Commission does not have authority to approve or disapprove the merger, the proposed financing or the other transactions necessary to complete them, and that the Commission has continuing jurisdiction over the intrastate operations of KPL and that neither the Stipulation or Order, if issued, pursuant to the Stipulation, will preclude the Commission from subsequent exercise of its lawful authority to regulate the intrastate Oklahoma operations of KPL, prior to and subsequent to the proposed merger of KPL and KG&E.

Being fully advised in the premises, the Commission finds and concludes as follows:

1. KPL is a corporation duly organized and existing under the laws of the State of Kansas with its principle office and place of business located at 818 Kansas Avenue, Topeka, Kansas, 66612. KPL is duly licensed as a foreign corporation to do business in the State of Oklahoma.

2. KPL is a combination electric and natural gas public utility. As a natural gas public utility, KPL transports and sells gas in Kansas, western Missouri and northeastern Oklahoma. In Oklahoma, KPL operates as a natural gas public utility as defined by 17 O.S. 1981, §151, providing natural gas service to approximately 35,000 retail customers in twenty communities in Oklahoma. KPL's Oklahoma operations are regulated by this Commission pursuant to 17 O.S. 1981, §152. KPL has no electric operations in Oklahoma.

3. KG&E is a public utility involved in the generation, transmission, distribution, and sale of electric power in south central and southeastern Kansas. KG&E neither owns nor operates any property in Oklahoma, nor does it serve any retail customer of any kind in Oklahoma. KG&E neither owns, operates nor manages any plant or equipment in Oklahoma, nor does KG&E supply any retail commodity in Oklahoma. Neither is KG&E authorized to exercise the right of eminent domain in Oklahoma, nor does it have any franchises in Oklahoma. Accordingly, KG&E is not a domestic public utility within the meaning of 17 O.S. Supp. 1987, §191.1(5) and the Commission exercises no jurisdiction over KG&E pursuant to 17 O.S. 1981, §§151, 152, 191.2. In addition, KG&E is not a public service corporation within the meaning of Oklahoma Constitution, Article 9, §34.

4. Pursuant to an Agreement and Plan of Merger between KPL and KG&E dated October 28, 1990 (the "Agreement"), KPL and KG&E have agreed on terms and conditions under which KPL will acquire the stock of KG&E, and KG&E will be merged with and into a wholly-owned subsidiary of KPL, which will be the surviving corporation. KG&E's operations will be structured as a subsidiary of KPL, with its operational headquarters remaining in Wichita. The specific terms of the proposed merger are set forth in the Merger Agreement attached to the Application.

The Commission further finds that it has jurisdiction of KPL and has the authority pursuant to Article IX, §8 of the Oklahoma Constitution and Title 17 of the Oklahoma Statutes (1981), §152 and 17 O.S. Supp., §191.2 to grant the relief requested herein by the applicant.

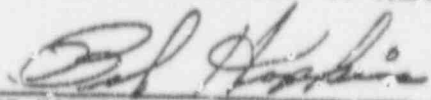
The Commission further finds that proper notice was given pursuant to the law and the rules of this Commission in this cause.


The Commission further finds and adopts the Stipulation filed herein as if it were fully set forth in this Order.

Having considered the pleadings submitted by KPL and the recommendations of its Staff, and having adopted the Stipulation filed herein, the Commission finds that it does not have jurisdiction over the approval of the proposed merger between KPL and KG&E or the financing and other transactions necessary to complete it.

IT IS THEREFORE THE ORDER OF THE OKLAHOMA CORPORATION COMMISSION that the Application of The Kansas Power and Light Company for an order finding that approval of a proposed merger involving Kansas Gas and Electric and KPL, is not within this Commission's jurisdiction shall be and is hereby granted.

CORPORATION COMMISSION OF OKLAHOMA

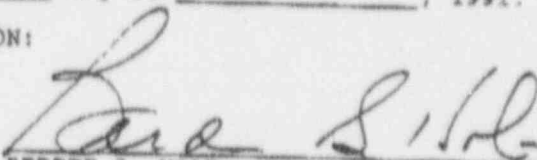
  
BOB HOPKINS, Chairman

  
BOB ANTHONY, Vice Chairman

J. C. WATTS, JR., Commissioner

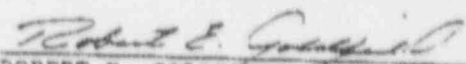
DONE AND PERFORMED this 6 day of MAY, 1991.

BY ORDER OF THE COMMISSION:

  
BERDEE S. HOLT, Secretary

REPORT OF THE ADMINISTRATIVE LAW JUDGE

The foregoing Findings and Order are the Report and Recommendations of the Administrative Law Judge.

  
ROBERT E. GOLDFIELD  
Administrative Law Judge

May 2, 1991  
DATE